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The Assam Gazette

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EXTRAORDINARY

প্ৰাপ্ত-কৰ্তৃদ্বৰ দ্বাৰা প্ৰকাশিত

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নং 41 দিশপুৰ, শনিবাৰ, 19 জুলাই, 1980, 28 আহাৰ, 1902 (*ক)
No. 41 Dispur, Saturday, 19th July, 1980, 28th Asadha,
1902 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT

NOTIFICATION

The 19th July 1980

No.LGL104/80/1.—The following Act made by the President and published in the Gazette of India Extraordinary Part II of Section I, dated 19th July, 1980 is republished for general information.

U. TAHBILDAR,
Secretary to the Govt. of Assam,
Legislative Department.

Name of Act	No. of Act	Date of assent
The Assam Finance (Sales-tax) (Amendment) Act, 1980.	President's Act No. 2 of 1980.	19th July 1980.

President's Act No.2 of 1980

Received the assent of the President on 19th July, 1980.

**THE ASSAM FINANCE (SALES-TAX) (AMENDMENT)
ACT 1980**

Enacted by the President in the Thirty-first Year of the
Republic of India.

AN

ACT

further the amend the Assam Finance (Sales-tax) Act, 1965.

In exercise of the powers conferred by
Section 3 of the Assam State Legislature
(Delegation of Powers) Act, 1980, the³⁸ of 1980.
President is pleased to enact as follows:—

Short title
and com-
mencement. 1. (1) This Act may be called the Assam
Finance (Sales-Tax) (Amendment) Act,
1980.

Assam Act
XI of 1956. (2) It shall be deemed to have come in-
to force on and with effect from the date
of commencement of the Assam Finance
(Sales Tax) Act, 1956.

Assam Act
XI of 1956. 2. In the Assam Finance (Sales Tax) Act, 1956, after Section 13, the following
sections shall be inserted, namely:—
Insertion of
new Sections
13 A, 13 B
and 13 C.

Prohibition
to collect ex-
cess tax. 13A. (1) No person shall collect any
sum by way of tax in respect of sale of
any goods on which by virtue of Sec-
tion 3 read with the Schedule attached
to this Act no tax is payable.

(2) No person, who is not a registered
dealer and liable to pay tax in respect
of any sale, shall collect on the sale of
any goods any sum by way of tax from
any other person and no registered dea-
ler shall collect any amount by way of

tax in excess of the amount of tax payable by him under the provisions of this Act.

Forfeiture of
excess tax etc.

13B. (1) If any person,—

(i) not being a dealer liable to pay tax under this Act, collects any sum by way of tax, or

(ii) being a registered dealer collects any sum by way of tax in excess of the tax payable by him, or

(iii) otherwise collects tax in contravention of the provisions of Section 13A,

any sum collected by that person by way of tax in contravention of Section 13A shall be forfeited to the State Government and when any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

(2) Where the Commissioner has reason to believe that any person has wilfully contravened the provisions of Section 13A, the Commissioner may impose upon such person a penalty of an amount not exceeding two thousand rupees or double the sum collected by such person by way of tax in contravention of the provisions of Section 13A, whichever is less:

Provided that no penalty shall be imposed in respect of any such contravention which occurred on a date prior to the publication of the Assam Finance (Sales Tax) (Amendment) Act, 1980, in the Official Gazette.

(3) If the Commissioner in the course of any proceeding under this Act or otherwise has reason to believe that any person

has become liable to forfeiture of any sum under sub-section (1), or both forfeiture of any sum under sub-section (1) and penalty under sub-section (2), he shall serve on such person a notice in the prescribed form requiring him on a date and at a place specified in the notice to attend and show cause why forfeiture or both forfeiture and penalty of any sum as provided in sub-section (1) and sub-section (2) should not be imposed on him.

(4) The Commissioner shall thereupon hold an enquiry and shall make such order as he thinks fit.

(5) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

13C. (1) The amount of penalty (if any) ^{payment of} levied under Section 13B, and the sum (if ^{sum forfeited} ^{etc.} any) forfeited to the State Government under Section 13B shall be paid by the dealer, or the person liable therefor in Government treasury by such date as may be specified in a notice issued by the Commissioner for this purpose, being a date not earlier than thirty days from the date of service of the notice :

Provided that, the Commissioner may, in respect of any particular dealer or person and for reasons to be recorded in writing, extend the date of payment, or allow him to pay the penalty (if any) imposed under Section 13B or the sum forfeited by instalments.

(2) Any penalty imposed or sum forfeited under Section 13B which remains un-paid after the date specified in the notice for payment or after the extended date of payment, and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any sum collected by a person by way of tax in contravention of Section 13A, is forfeited to the State Government under Section 13B and is recovered from him, such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was so collected.

(4) A refund of any such sum or any part thereof may be claimed from Government by the person from whom it was realised by way of tax, provided such tax was not passed on by him in any form or manner to some other person and if such tax was so passed on to some other person, the claim for refund may be made by such other person only.

(5) An application for such claim shall be made in writing in the prescribed form to the Commissioner, within one year from the date of the order of forfeiture.

(6) On receipt of an application under sub-section (5), the Commissioner shall hold such inquiry as he deems fit, and if the Commissioner is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid in Government treasury or recovered, and no draw-back, set-off, refund or remission in respect of that amount was granted, he shall refund the sum or any part thereof, which is found due to the person concerned."

N. SANJIVAREDDY,
President.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.